

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

WALT R. DARBY,

Plaintiff,

v.

Case No.: 3:21-cv-734

THE UNITED STATES OF AMERICA

SERVE: Merrick B. Garland, Esquire, Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Defendant.

COMPLAINT

TO THE HONORABLE JUDGES
OF THE AFORESAID COURT:

COMES NOW, Walt R. Darby, by counsel, and moves this Honorable Court for a Judgment and Award of Execution against the defendant, The United States of America, in the sum of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) representing compensatory damages for the following reasons, to-wit:

1. Defendant The United States of America is a proper party under the provisions of 28 U.S.C. § 2679 as Chelsea E. Butcher was and is an agent and employee of the United States Postal Service, an agency of The United States of America, and therefore is a government employee, and at all times material hereto was acting by and with the United States Postal Service's permission and within the scope of her authority and employment.

2. Defendant The United States of America has consented to being a party to this proceeding and to being liable for any damages that arose out of United States Postal Service

employee Chelsea E. Butcher's negligent acts under the Federal Tort Claims Act codified at 28 U.S.C. § 1346(b)(1) and 28 U.S.C. § 2671 et seq.

3. Prior to the filing of this lawsuit, a claim was timely and properly presented to the United States Postal Service in accordance with 28 U.S.C. § 2675(a), and a final disposition of the claim presented was not reached by the expiration of the 180-day period.

4. Jurisdiction is proper in the United States District Court, Eastern District of Virginia, Richmond Division, under 28 U.S.C. § 1346(b)(1) which grants exclusive jurisdiction of civil actions arising out of injuries caused by the negligent acts of government employees to the United States District Courts.

5. Venue is proper in the United States District Court, Eastern District of Virginia, Richmond Division, under 28 U.S.C. § 1402(b) because the locus of the automobile accident, as hereinafter alleged, was in Middlesex County and the plaintiff's domicile is in Chester, Virginia.

6. That on or about Thursday, December 5, 2019, at approximately 2:26 p.m., the plaintiff, Walt R. Darby, was operating a 2019 International van in a northerly direction on Tower Road, 1.0 mile east of Constitution Highway. At the same time and place, Chelsea E. Butcher was driving a 2007 Toyota vehicle, traveling in a northerly direction on Tower Road, 1.0 mile east of Constitution Highway when she made a "U" turn in front of plaintiff's vehicle, causing a collision.

7. That Chelsea E. Butcher operated the postal truck which she was driving, as an agent and employee of the Defendant The United States Postal Service, by and with the permission of the defendant and within the scope and authority of her employment, in a careless, reckless and negligent manner so as to cause her vehicle to collide with the plaintiff's vehicle.

8. That by reason of and as a direct and proximate result of which the plaintiff received severe and permanent injuries, has undergone great physical pain and anguish, medical expenses, lost wages and in the future may be caused to suffer physical pain, medical expense, lost wages and anguish, and;

9. That by reason of and as a direct and proximate result of which the plaintiff has sustained damages in the extent of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).

WHEREFORE, the plaintiff prays that he be granted a judgment against the Defendant The United States of America in the sum of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00), representing compensatory damages for the negligence aforesaid and costs in this behalf expended and interest from the date of the cause of action pursuant to Section 8.01-382 of the Code of Virginia, 1950, as amended, as well as pre-judgment and post-judgment interest as allowed by law.

WALT R. DARBY

By /s/ _____
Counsel

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